(Draft No. 4.1 – S.6)	Page 1
2/17/2015 - EBF - 02:15 PM	
HOUSE CHANGES TO SENATE BILL	

1 TO THE HOUSE OF REPRESENTATIVES: 2 The House Committee on Judiciary to which was referred Senate Bill No. 6 3 entitled "An act relating to technical corrections to civil and criminal procedure 4 statutes" respectfully reports that it has considered the same and recommends 5 that the House propose to the Senate that the bill be amended by striking out all 6 after the enacting clause and inserting in lieu thereof the following: 7 Sec. 1. 13 V.S.A. § 1501 is amended to read: 8 § 1501. ESCAPE AND ATTEMPTS TO ESCAPE * * * 9 10 (b)(1) A person who shall not, while in lawful custody: 11 (1) fails (A) fail to return from work release to the correctional facility 12 at the specified time, or visits other than the specified place, as required by the 13 order issued in accordance with 28 V.S.A. § 753; 14 (2) fails (B) fail to return from furlough to the correctional facility at 15 the specified time, or visits other than the specified place, as required by the 16 order issued in accordance with 28 V.S.A. § 808, 808a, 808b, or 808c; 17 (3) escapes or attempts (C) escape or attempt to escape while on release 18 from a correctional facility to do work in the service of such facility or of the 19 Department of Corrections in accordance with 28 V.S.A. § 758; or 20 (4) escapes or attempts (D) escape elope or attempt to escape elope 21 from the Vermont State Hospital, or its successor in interest Psychiatric Care

(Draft No. 4.1 – S.6)	
2/17/2015 - EBF - 02:15 PM	
HOUSE CHANGES TO SENATE BILL.	

	(Draft No. 4.1 – S.6)	Page 2 of 8
	2/17/2015 - EBF - 02:15 PM	
	HOUSE CHANGES TO SENATE BILL	
1	Hospital or a participating hospital, when confined by court order p	oursuant to
2	chapter 157 of this title, or when transferred there pursuant to 28 V	.S.A. § 703
3	and while still serving a sentence, shall be imprisoned for not more	than five
1	years or fined not more than \$1,000.00, or both.	

- (2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.
- * * * 7
- 8 (d) As used in this section:

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- 9 * * *
- 10 (3) "Successor in interest" shall mean the mental health hospital owned and operated by the State that provides acute inpatient care and replaces the 11
- 12 Vermont State Hospital.
- 13 Sec. 2. 13 V.S.A. § 5321 is amended to read:
- 14 § 5321. APPEARANCE BY VICTIM
- * * * 15
- 16 (c) In accordance with court rules, at the sentencing hearing, the 17 court Court shall ask if the victim is present and, if so, whether the victim 18 would like to be heard regarding sentencing. in <u>In</u> imposing sentence, the court 19 Court shall consider any views offered at the hearing by the victim. if If the 20 victim is not present, the eourt Court shall ask whether the victim has

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expressed, either orally or in writing, views regarding sentencing and shall take
those views into consideration in imposing sentence.

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the eourt Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the eommissioner Commissioner of eorrections Corrections and that the eommissioner Commissioner of eorrections Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. in In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.

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- 15 Sec. 3. 13 V.S.A. § 5574 is amended to read:
- 16 § 5574. BURDEN OF PROOF; JUDGMENT; DAMAGES
 - (a) A claimant shall be entitled to judgment in an action under this subchapter if the claimant establishes each of the following by clear and convincing evidence:

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1	(2)(A) The the complainant's conviction was reversed or vacated, the
2	complainant's information or indictment was dismissed, or the complainant
3	was acquitted after a second or subsequent trial-; or
4	(B) The the complainant was pardoned for the crime for which he or
5	she was sentenced.
6	* * *
7	Sec. 4. 18 V.S.A. § 4230 is amended to read:
8	§ 4230. MARIJUANA
9	(a) Possession and cultivation.
10	(1)(A) No person shall knowingly and unlawfully possess more than one
11	ounce of marijuana or more than five grams of hashish or cultivate marijuana.
12	For a first offense under this subdivision (A), a person shall be provided the
13	opportunity to participate in the Court Diversion Program unless the prosecutor
14	states on the record why a referral to the Court Diversion Program would not
15	serve the ends of justice. A person convicted of a first offense under this
16	subdivision shall be imprisoned not more than six months or fined not more
17	than \$500.00, or both.
18	<u>* * *</u>

Page 5 of 8

1	(b) Selling or dispensing.
2	(1) A person knowingly and unlawfully selling marijuana or hashish
3	shall be imprisoned not more than two years or fined not more than
4	\$10,000.00, or both.
5	(2) A person knowingly and unlawfully selling or dispensing one-half
6	more than one ounce or more of marijuana or 2.5 more than five grams or
7	more of hashish shall be imprisoned not more than five years or fined not more
8	than \$100,000.00, or both.
9	(3) A person knowingly and unlawfully selling or dispensing one pound
10	or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more
11	than 15 years or fined not more than \$500,000.00, or both.
12	* * * *
13	Sec. 5. 18 V.S.A. § § 4230a, 4230b, and 4230c are amended to read:
14	§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE
15	OR OLDER; CIVIL VIOLATION
16	(a) A person 21 years of age or older who knowingly and unlawfully
17	possesses or dispenses one ounce or less of marijuana or five grams or less of
18	hashish commits a civil violation and shall be assessed a civil penalty as
19	follows:
20	(1) not more than \$200.00 for a first offense;
21	(2) not more than \$300.00 for a second offense;

1	(3) not more than \$500.00 for a third or subsequent offense.
2	(b)(1) Except as otherwise provided in this section, a person 21 years of
3	age or older who possesses or dispenses one ounce or less of marijuana or five
4	grams or less of hashish or who possesses paraphernalia for marijuana use
5	shall not be penalized or sanctioned in any manner by the State or any of its
6	political subdivisions or denied any right or privilege under State law.
7	(2) A violation of this section shall not result in the creation of a
8	criminal history record of any kind.
9	* * *
10	§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
11	OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION
12	(a) Offense. Except as otherwise provided in section 4230c of this title, a
13	person under 21 years of age who knowingly and unlawfully possesses or
14	dispenses one ounce or less of marijuana or five grams or less of hashish
15	commits a civil violation and shall be referred to the Court Diversion Program
16	for the purpose of enrollment in the Youth Substance Abuse Safety Program.
17	A person who fails to complete the program successfully shall be subject to:
18	(1) a civil penalty of \$300.00 and suspension of the person's operator's
19	license and privilege to operate a motor vehicle for a period of 90 days, for a
20	first offense; and

1 (2) a civil penalty of not more than \$600.00 and suspension of the 2 person's operator's license and privilege to operate a motor vehicle for a 3 period of 180 days, for a second offense. 4 5 <mark>4230c. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS</mark> OF AGE: THIRD OR SUBSEQUENT OFFENSE: CRIME 6 7 No person shall knowingly and unlawfully possess or dispense marijuana. 8 A person under 21 years of age who knowingly and unlawfully possesses one 9 ounce or less of marijuana or five grams or less of hashish commits a crime if 10 the person has been adjudicated at least twice previously in violation of section 11 4230b of this title and shall be imprisoned not more than 30 days or fined not 12 more than \$600.00, or both. 13 Sec. 6. 33 V.S.A. § 5308(a)(4) is amended to read: 14 (4) The custodial parent, guardian, or guardian custodian has abandoned 15 the child. 16 Sec. 7. 2014 Acts and Resolves No. 126, Sec. 7 is amended to read: 17 Sec. 7. EFFECTIVE DATE 18 This act shall take effect on July 1, 2014 and shall apply to restitution orders 19 issued after that date; provided, however, that notwithstanding 1 V.S.A. § 214, 20 Secs. 1, 3, 4, 5, and 6 shall also apply retroactively to restitution orders issued 21 on or before July 1, 2014.

Page 8 of 8 (Draft No. 4.1 - S.6) 2/17/2015 - EBF - 02:15 PM HOUSE CHANGES TO SENATE BILL 1 Sec. 8. EFFECTIVE DATE 2 This act shall take effect on passage. 3 4 5 (Committee vote: _____) 6 7 Representative _____ 8

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FOR THE COMMITTEE